

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MARY KAY, INC.,

Plaintiff,

v.

AMY L. WEBER, SCOTT J. WEBER,
and TOUCH OF PINK COSMETICS,

CASE NO.: 3-08-CV-776-G
ECF

Defendants.

/

DEFENDANTS' SECOND AMENDED TRIAL WITNESS LIST

COME NOW Defendants, Amy L. Weber, Scott J. Weber and Touch of Pink Cosmetics (“Defendants”) and file this Second Amended Trial Witness List in accordance with the Court’s Amended Order Establishing Schedule and Certain Pretrial Requirements dated September 16, 2008. The “direct” time is Defendants’ estimated time for their witnesses, regardless of whether they call a particular witness or Plaintiff calls that witness. Likewise, “cross” is Defendants’ estimate of the time Plaintiff will examine the witness, regardless of which party calls that witness.

I. PROBABLE WITNESSES

Amy L. Weber
Touch of Pink Cosmetics
622 U.S. Highway 6
La Salle, Illinois 61301

Ms. Weber is expected to testify about being and then ceasing being a Mary Kay IBC, Defendants’ sale of Mary Kay products on the internet, Mary Kay’s communications with Defendants, all aspects of the operations of Touch of Pink and Defendants’ revenues, expenses and profit.

EXPECTED DURATION: DIRECT – 3 hours CROSS - 1.5 hours

Scott J. Weber
Touch of Pink Cosmetics
622 U.S. Highway 6
La Salle, Illinois 61301

Mr. Weber is expected to testify about his decision to sell Mrs. Webers' remaining inventory on eBay, Defendants' sale of Mary Kay products on the internet, development of the business, communications with Mary Kay and Touch of Pink photographs of Mary Kay products.

EXPECTED DURATION: DIRECT – 30-60 mins. CROSS – 45 mins.

Tammy Hoebing
1332 Bucklin St
LaSalle, IL 61301

Ms. Hoebing is expected to testify about her knowledge of shipping and receiving of products for Touch of Pink.

EXPECTED DURATION: DIRECT – 30-60 mins. CROSS – 15 mins.

Sharran Martin (BY DEPOSITION)
1711 45th Avenue
Greeley, Colorado 80634

Ms. Martin may be called to testify about being a Mary Kay IBC, her purchase of products from Touch of Pink and sale of those products and the matters set forth in the designation of deposition testimony.

EXPECTED DURATION: DIRECT – 45 mins. CROSS -1 hour

II. POSSIBLE WITNESSES

Brandee Bell
512 Corning Street
Anderson, South Carolina

Ms. Bell is expected to testify about her knowledge of Touch of Pink's purchasing of Mary Kay Products from third parties.

EXPECTED DURATION: DIRECT – 30 mins. CROSS – 30 mins.

Karen Richardson (BY DEPOSITION)
10403 Duke Court
Fairdale, Kentucky 40118
502.533.1602

Ms. Richardson may be called to discuss her experience with Touch of Pink and the matters designated in the designation of deposition testimony.

EXPECTED DURATION: DIRECT – 30 mins. CROSS – 30 mins.

Sherrie Moore
P.O. Box 3263
Show Low, Arizona 85902

Ms. Moore may be called to testify about her knowledge of customer service issues with Touch of Pink.

EXPECTED DURATION: DIRECT – 10 mins. CROSS – 10 mins.

Roberta Defoe
411 Main St
Dalzell, Illinois 61320

Ms. Defoe may be called to testify about her knowledge of Touch of Pink's shipping and receiving of products.

EXPECTED DURATION: DIRECT – 20 mins. CROSS – 15 mins.

Rene Wickham
Mary Kay, Inc.
c/o Lynn Tillotson Pinker & Cox, LLP
750 North St. Paul Street
Suite 1400
Dallas, TX 75201

Ms. Wickham may be called to testify about Mary Kay product quality issues.

EXPECTED DURATION: DIRECT – 2 hours CROSS – 1 hour

Nancy Pike
Mary Kay, Inc.
c/o Lynn Tillotson Pinker & Cox, LLP
750 North St. Paul Street
Suite 1400
Dallas, TX 75201

Ms. Pike may be called to testify regarding communications between Mary Kay and the Webers, the Webers compliance and other enforcement issues.

EXPECTED DURATION: DIRECT – 20-30 mins. CROSS – 30 mins.

III. EXPERT WITNESSES

Richard May
Bokus & May
1910 Forth Street
Peru, Illinois 61354

Mr. May is expected to testify regarding Defendants' taxes for years 2005-2007.

EXPECTED DURATION: DIRECT – 45 mins. CROSS – 30 mins.

Itamar Simonson
Graduate School of Business
Stanford University
Stanford, California 94305

Prof. Simonson is expected to testify in rebuttal to any testimony presented by Plaintiff's expert Kent Van Liere.

EXPECTED DURATION: DIRECT – 2 hours CROSS – 1 hour

Respectfully submitted,

/s/ Elizann Carroll
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2009, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for Mary Kay, Inc. who are authorized to receive electronically Notices of Electronic Filing:

Counsel for Plaintiff Mary Kay, Inc.:

John T. Cox III
Christopher J. Schewgmann
LYNN TILLOTSON PINKER & COX, LLP
750 N. St. Paul Street, Suite 1400
Dallas, Texas 75201

/s/ Elizann Carroll